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B. Welsh
AUSA

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LAS VEGAS, NV UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

UNITED STATES OF AMERICA,)

Plaintiff,)

v.)

EAST CHARLESTON and FOGG,)

LIMITED PARTNERSHIP and)

HAROLD GERECHT,)

Defendants.)

EAST CHARLESTON and FOGG,)

LIMITED PARTNERSHIP and)

HAROLD GERECHT,)

Third-Party Plaintiffs,)

v.)

JULIUS BONOCCHI, an)

individual,)

Third-Party Defendant.)

^S
CV-~~N~~-97-000760-DWT1(RJ)

CONSENT DECREE

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I. BACKGROUND

A. The United States of America ("United States"), on behalf of the Administrator of the United States Environmental Protection Agency ("EPA"), filed a complaint in this matter pursuant to Sections 104 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§ 9604 and 9607, as amended ("CERCLA"), seeking Past Response Costs against Settling Defendants. Documented Past Response Costs total \$1,024,320.00. EPA's claim is secured by a federal Superfund lien perfected on the Site pursuant to Section 107(1) of CERCLA, 42 U.S.C. § 9607(1).

B. Settling Defendants filed a counterclaim against the United States alleging that Settling Federal Agency is liable under Section 107 of CERCLA, and seeking contribution pursuant to Section 113 of CERCLA.

C. The Settling Defendants lack sufficient funds to reimburse the United States for its Past Response Costs. Therefore, the Settling Defendants have agreed to sell the Site, with the proceeds of the sale to be used to reimburse the United

States for its Past Response Costs as set forth in this Consent Decree.

D. Settling Defendants do not admit any liability to the United States arising out of the transactions or occurrences alleged in the complaint, nor do they acknowledge that the release or threatened release of hazardous substances at or from the Site constitutes an imminent or substantial endangerment to the public health or welfare or the environment. The United States does not admit any liability arising out of the transactions or occurrences alleged in any counterclaim asserted by Settling Defendants.

E. The Parties recognize, and this Court by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Parties in good faith, that settlement of this matter will avoid prolonged and complicated litigation between the Parties, and that this Consent Decree is fair, reasonable, and in the public interest.

NOW, THEREFORE, with the consent of the Parties to this Consent Decree, it is hereby ORDERED, ADJUDGED, AND DECREED:

II. JURISDICTION

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1345 and 1355 and 42 U.S.C. §§ 9604, 9607 and 9613(b), and also has personal jurisdiction over Settling Defendants. Solely for the purposes of this Consent Decree and the underlying complaint, Settling Defendants waive all objections and defenses that they may have to jurisdiction of the Court or to venue in this District. Settling Defendants shall not challenge the terms of this Consent Decree or this Court's jurisdiction to enter and enforce this Consent Decree.

III. PARTIES BOUND

2. This Consent Decree is binding upon the United States, on behalf of EPA and the Settling Federal Agency, and upon Settling Defendants and their heirs, successors and assigns. Any change in ownership or corporate or other legal status, including but not limited to, any transfer of assets or real or personal property, shall in no way alter the status or responsibilities of Settling Defendants under this Consent Decree.

IV. DEFINITIONS

3. Unless otherwise expressly provided herein, terms used in this Consent Decree which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Consent Decree, the following definitions shall apply:

a. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 9601, et seq.

b. "Consent Decree" shall mean this Consent Decree.

c. "Day" shall mean a calendar day. In computing any period of time under this Consent Decree, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day.

d. "Debris" shall mean all steel, lumber, vehicles, household items, bricks, concrete, machinery or machine parts, tires, appliances or appliance parts, furniture, carpeting, and any and all other tangible items.

e. "DOJ" shall mean the United States Department of Justice and any successor departments, agencies or instrumentalities of the United States.

f. "East Charleston" shall mean the defendant East Charleston and Fogg, a limited partnership.

g. "EPA" shall mean the United States Environmental Protection Agency and any successor departments, agencies or instrumentalities of the United States.

h. "EPA Hazardous Substance Superfund" shall mean the Hazardous Substance Superfund established by the Internal Revenue Code, 26 U.S.C. § 9507.

i. "Interest" shall mean interest at the current rate specified for interest on investments of the Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a).

j. "Paragraph" shall mean a portion of this Consent Decree identified by an Arabic numeral or an upper or lower case letter.

k. "Parties" shall mean the United States and Settling Defendants.

l. "Past Response Costs" shall mean all costs, including but not limited to direct and indirect costs, that EPA or DOJ on behalf of EPA has paid at or in connection with the Site through December 31, 1998, plus accrued Interest on all such costs through such date.

m. "Person" shall mean an individual, firm, corporation, association, partnership, consortium, joint venture and/or commercial entity. Person does not include the United States or any of its employees, agencies or instrumentalities.

n. "Plaintiff" shall mean the United States.

o. "Section" shall mean a portion of this Consent Decree identified by a Roman numeral.

p. "Settling Defendants" shall mean East Charleston and Harold Gerecht.

q. "Settling Federal Agency" shall mean the United States Department of the Air Force, and its successors.

r. "Site" shall mean the East Charleston and Fogg Site as described in the United States' complaint and located at 6247 East Charleston Boulevard, Las Vegas, Nevada.

s. "United States" shall mean the United States of America, including all of its departments, agencies and instrumentalities.

V. GENERAL PROVISIONS

4. Objectives of the Parties. The objectives of the Parties in entering into this Consent Decree are to resolve the claims of the United States against Settling Defendants for Past Response Costs and the counterclaims of Settling Defendants which have been or could have been asserted against the United States in this action.

5. Commitments by Settling Defendants and Settling Federal Agency. Settling Defendants shall reimburse the United States for Past Response Costs as provided in this Consent Decree. The Settling Federal Agency shall reimburse the EPA Hazardous Substances Superfund for Past Response Costs as provided in this Consent Decree.

VI. DEBRIS ON THE SITE

6. Settling Defendants shall not put Debris on the Site after December 1, 1998. If Settling Defendants put additional Debris on the Site, Settling Defendants must not only pay

Stipulated Penalties as provided in Section IX, but must remove the Debris within ten (10) Days of putting it on the Site or within ten (10) Days after receiving notice from EPA, and store or dispose of it in a manner that complies with all applicable local, state and/or federal laws, regulations and other requirements. In the event the Settling Defendants do not comply with this paragraph, EPA can order the Settling Defendants to remove the Debris.

VII. CONVEYANCE OF THE SITE

7. Settling Defendants have agreed to sell the Site, with the proceeds of the sale used to reimburse the United States for its Past Response Costs as set forth in this Consent Decree.

8. East Charleston shall retain ownership of the Site and shall be responsible for paying all costs and taxes incurred as a result of such ownership.

9. The United States shall approve an initial listing price at which the Site shall be advertised for sale. The initial listing price shall be based upon the appraisal provided by the real estate appraiser retained by the United States, and any other information deemed relevant by the United States.

10. Commencing within fifteen (15) Days after the United States provides Settling Defendants with an initial listing price, Settling Defendants shall use their best efforts to sell the Site.

11. "Best Efforts," for purposes of this Section, shall include, but not be limited to: (1) listing the Site with a broker, dealer, or agent who usually deals with the type of property in question and is approved by the United States pursuant to Paragraphs 18-19; (2) advertising the Site as being for sale at least two full weekends (Saturday and Sunday) a month on the Internet, commercial referral services, direct marketing and mailing programs, real estate publications, trade and other publications suitable for advertising the sale of the Site, and a newspaper of general circulation (defined as one with a circulation of more than 10,000) covering the area where the Site is located; (3) responding to the reasonable inquiries of prospective buyers; (4) maintaining the Site in a condition suitable for exhibition to prospective buyers; and (5) allowing the Site to be shown at all reasonable times.

12. Settling Defendants shall timely provide to EPA copies of all advertising, and indicate when such advertising is or was displayed. Copies shall be considered timely if the copies arrive at EPA within the month such advertising is or was displayed. The United States reserves the right to direct Defendant, in writing, to add, delete, or otherwise modify advertising copy, and Defendant agrees to comply with the United States' written requests to add, delete or otherwise modify advertising copy.

13. Within fifteen (15) Days after the United States provides Settling Defendants with an initial listing price, Settling Defendants shall provide to the United States the names, addresses, telephone numbers, and commission or fee schedules of at least two brokers, dealers, or agents who usually deal with the type of property in question, in accordance with Section XIII (Notices and Submissions).

14. The United States may select a broker, dealer or agent from those proposed by Settling Defendants, or choose a different broker, dealer or agent. The United States shall notify Settling Defendants in writing, pursuant to Section XIII (Notices and

Submissions), of the name, address and telephone number of the approved broker, dealer or agent. Defendants shall list the Site with that broker, dealer or agent within fifteen (15) Days of receiving such written notification.

15. The final sales price and final sale shall be subject to the United States' written approval. Settling Defendants must use their best efforts to sell the property until the United States approves a sale as final.

VIII. REIMBURSEMENT OF RESPONSE COSTS

16. Within fifteen (15) Days after closing on the sale of the Site, Settling Defendants shall pay to the United States, as reimbursement of Past Response Costs, the gross proceeds from the sale of the Site, minus the closing costs charged to Settling Defendants (which shall include only the abstracting charges, termite inspection, lead inspection, and the purchase of revenue stamps), amounts paid to secured lienholders with lien interests superior to the United States' interest secured by the federal Superfund lien filed against the Site, and the costs of advertising the Site as being for sale and/or the reasonable and ordinary commission of the broker. Settling Defendants shall be

solely responsible for all other costs associated with selling the Site.

17. In the event the gross proceeds from the sale of the Site (minus the closing costs, amounts paid to secured lienholders with lien interests superior to the United States' interest, the costs of advertising the Site as being for sale and/or the reasonable and ordinary commission of the broker, as described above), exceed \$537,768.00, the proceeds above \$537,768.00, shall be retained by East Charleston.

18. The payment pursuant to Paragraph 16 shall be made to the EPA Hazardous Substance Superfund. Payment shall be made by FedWire Electronic Funds Transfer ("EFT") to the U.S. Department of Justice account in accordance with current EFT procedures, referencing the EPA Region and Site spill ID Number 097K, and DOJ Case 90-11-3-1742. Payment shall be made in accordance with instructions provided to Settling Defendants by the Financial Litigation Unit of the U.S. Attorney's Office in the District of Nevada following lodging of the Consent Decree. Any payments received by the Department of Justice after 4:00 p.m. Eastern Time shall be credited on the next business Day. Settling

Defendants shall send notice to EPA and DOJ that payment has been made in accordance with Section XI (Notices and Submissions).

19. As soon as reasonably practicable after the effective date of this Consent Decree, the United States, on behalf of the Settling Federal Agency, shall pay to the EPA Hazardous Substance Superfund \$486,552.00, in reimbursement of Past Response Costs.

20. If the payment to the EPA Hazardous Substances Superfund required by paragraph 19 is not made as soon as reasonably practicable, the appropriate EPA Regional Branch Chief may raise any issues relating to payment to the appropriate DOJ Assistant Section Chief for the Environmental Defense Section. In any event, if this payment is not made within 120 Days after the effective date of this Consent Decree, EPA and DOJ have agreed to resolve the issue within 30 Days.

21. The Parties to this Consent Decree recognize and acknowledge that the payment obligations of the Settling Federal Agency under this Consent Decree can only be paid from appropriated funds legally available for such purpose. Nothing in this Consent Decree shall be interpreted or construed as a commitment or requirement that any Settling Federal Agency

obligate or pay funds in contravention of the Anti-Deficiency Act, 31 U.S.C. § 1341, or any other applicable provision of law.

IX. FAILURE TO COMPLY WITH REQUIREMENTS OF CONSENT DECREE

22. In the event that any payment required by Section VIII (Reimbursement of Response Costs), is not received when due from the Settling Defendants, Interest shall accrue on the unpaid balance from the sixteenth (16th) Day after closing on the sale of the Site through the date of payment.

23. If Settling Defendants fail to comply with the deadlines and obligations of Section VI (Debris on the Site) or Section VII (Conveyance of the Site) and/or if any amounts due to EPA under this Consent Decree under Section VIII (Reimbursement of Response Costs) are not paid by the required date, Settling Defendants shall pay to EPA, as a stipulated penalty, in addition to any Interest required by Paragraph 20, \$500 per violation per Day that Settling Defendants fail to comply with the specified deadlines and obligations and/or such payment is late.

a. Stipulated penalties are due and payable within 30 Days of the date of the demand for payment of the penalties by EPA. All payments to EPA shall be made by certified or cashier's

check made payable to "EPA Hazardous Substance Superfund" and shall be sent to: Mellon Bank, Attn: Superfund Accounting, EPA Region IX, P.O. Box 360748M, Pittsburgh, PA 15251. All payments shall indicate that the payment is for stipulated penalties and shall reference the name and address of the party making payment, EPA Region IX, EPA Site Spill ID Number 097K, and DOJ Case Number 90-11-3-1742. Copies of check[s] paid pursuant to this Paragraph, and any accompanying transmittal letter[s], shall be sent to the United States as provided in Section XIII (Notices and Submissions).

b. Stipulated penalties shall accrue regardless of whether EPA has notified Settling Defendants of the violation or made a demand for payment, but need only be paid upon demand. All penalties shall begin to accrue on the Day after complete performance is due or the Day a violation occurs, and shall continue to accrue through the final Day of correction of the noncompliance or completion of the activity. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Consent Decree.

24. If the United States brings an action to enforce this Consent Decree, Settling Defendants shall reimburse the United States for all costs of such action, including but not limited to costs of attorney time.

25. Stipulated payments made under this Section shall be in addition to any other remedies or sanctions available to the United States by virtue of Settling Defendants' failure to comply with the requirements of this Consent Decree.

26. The obligations of Settling Defendants to pay amounts owed the United States under this Consent Decree are joint and several. In the event of the failure of any one or more Settling Defendants to make the payments required under this Consent Decree, the remaining Settling Defendants shall be responsible for such payments.

27. Notwithstanding any other provision of this Section, the United States may, in its unreviewable discretion, waive payment of any portion of the stipulated penalties that have accrued pursuant to this Consent Decree.

X. COVENANTS BY PLAINTIFF

28. In consideration of the actions that will be performed and the payments that will be made by the Settling Defendants under the terms of this Consent Decree, and except as specifically provided in Paragraph 31 (Reservation of Rights by United States), the United States, on behalf of EPA, covenants not to sue or to take administrative action against Settling Defendants pursuant to Section 107 of CERCLA, 42 U.S.C. § 9607(a), relating to the Site. These covenants shall take effect upon EPA's approval of a final sale of the Site, and receipt by EPA of all payments required by Section VIII Paragraph 16 (Reimbursement of Response Costs) and Section IX (Failure to Comply With Requirements of Consent Decree). These covenants are conditioned upon the satisfactory performance by Settling Defendants of their obligations under this Consent Decree. These covenants extend only to Settling Defendants and do not extend to any other person.

29. Subject to the Reservation of Rights in Paragraph 31 of this Agreement, upon EPA's approval of a final sale of the Site, and receipt by EPA of all payments required by Section VIII

Paragraph 16 (Reimbursement of Response Costs) and Section IX (Failure to Comply With Requirements of Consent Decree), EPA agrees to remove the United States' lien filed against the Site pursuant to Section 107(1) of CERCLA, 42 U.S.C. § 9607(1).

30. In consideration of the payment that will be made by the Settling Federal Agency under the terms of the Consent Decree, and except as specifically provided in Paragraph 31 of this Consent Decree, EPA covenants not to take administrative action against the Settling Federal Agency pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), relating to the Site. EPA's covenant shall take effect upon the receipt of the payment required by Section VIII (Reimbursement of Response Costs). EPA's covenant is conditioned upon the satisfactory performance by the Settling Federal Agency of its obligations under this Consent Decree. EPA's covenant extends only to the Settling Federal Agency and does not extend to any other person.

31. United States' Reservation of Rights. The covenants not to sue set forth in Paragraphs 28 and 29 do not pertain to any matters other than those expressly specified therein. The United States reserves, and this Consent Decree is without

prejudice to, all rights against Settling Defendants, and EPA and the federal natural resources trustees reserve, and this Consent Decree is without prejudice to, all rights against the Settling Federal Agency, with respect to all other matters, including but not limited to:

a. claims based on a failure by Settling Defendants or the Settling Federal Agency to meet a requirement of this Consent Decree;

b. criminal liability;

c. liability for injunctive relief or administrative order enforcement under Section 106 of CERCLA, 42 U.S.C. § 6906;

d. liability arising from the past, present, or future disposal, release, or threat of release of waste materials outside the Site;

e. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;

f. liability for future disposal of waste material at the Site; and

g. liability for violations of federal or state law.

Notwithstanding any other provision of this Consent Decree, the Plaintiffs reserve, and this Consent Decree is without prejudice to, the right to institute proceedings in this action or in a new action, or to issue an administrative order seeking to compel the Settling Defendants and the Settling Federal Agency (i) to perform response actions relating to the Site or (ii) to reimburse the United States for costs of response related to such further response actions, if:

- a. conditions at the Site, previously unknown to the Plaintiffs, are discovered, or
- b. information, previously unknown to the Plaintiffs, is received, in whole or in part,

and these previously unknown conditions or information together with any other relevant information indicates that any remedial action taken at the Site is not protective of human health or the environment.

XI. COVENANTS BY SETTLING DEFENDANTS AND SETTLING FEDERAL AGENCY

32. Covenant Not to Sue by Settling Defendants. Settling Defendants covenant not to sue and agree not to assert any claims or causes of action against the United States or its contractors

or employees, with respect to the Site, Past Response Costs or this Consent Decree, including but not limited to:

a. any direct or indirect claim for reimbursement from the Hazardous Substance Superfund (established pursuant to the Internal Revenue Code, 26 U.S.C. § 9507) through CERCLA Sections 106(b)(2), 107, 111, 112, or 113, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;

b. any claim arising out of response activities at the Site, including claims based on EPA's selection of response actions, oversight of response activities or approval of plans for such activities;

c. any claim pursuant to Sections 107 or 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, relating to the Site.

d. any claim relating to the Equal Access to Judgment Act; and

e. any claim asserting a "takings" or similar claim, or under the Tucker Act, 28 U.S.C. § 1491.

33. Covenant by Settling Federal Agency. Settling Federal Agency hereby agrees not to assert any direct or indirect claim for reimbursement from the Hazardous Substance Superfund

(established pursuant to the Internal Revenue Code, 26 U.S.C. § 9507) through CERCLA Sections 106(b)(2), 107, 111, 112, 113, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law with respect to the Site. This covenant does not preclude demand for reimbursement from the Superfund of costs incurred by a Settling Federal Agency in the performance of its duties (other than pursuant to this Consent Decree) as lead or support agency under the National Contingency Plan (40 C.F.R. Part 300).

34. Nothing in this Consent Decree shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. 300.700(d).

XII. EFFECT OF SETTLEMENT/CONTRIBUTION PROTECTION

35. Nothing in this Consent Decree shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Consent Decree. Each of the Parties expressly reserves any and all rights (including, but not limited to, any right to contribution), defenses, claims, demands, and causes of action which each Party may have with respect to any

matter, transaction, or occurrence relating in any way to the Site against any person not a Party hereto.

36. The Parties agree, and by entering this Consent Decree this Court finds, that the Settling Defendants and the Settling Federal Agency are entitled, as of the effective date of this Consent Decree, to protection from contribution actions or claims as provided by Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), for matters addressed in this Consent Decree. Matters addressed in this Consent Decree are the United States Past Response Costs incurred at with respect to the Site.

37. Each Settling Defendant agrees that, with respect to any suit or claim for contribution brought by it for matters related to this Consent Decree, it will notify the United States in writing no later than 60 Days prior to the initiation of such suit or claim. Each Settling Defendant also agrees that, with respect to any suit or claim for contribution brought against it for matters related to this Consent Decree, it will notify the United States in writing within 10 Days of service of the complaint or claim upon it. In addition, each Settling Defendant shall notify the United States within 10 Days of service or

receipt of any Motion for Summary Judgment, and within 10 Days of receipt of any order from a court setting a case for trial, for matters related to this Consent Decree.

38. In any subsequent administrative or judicial proceeding initiated by the United States for injunctive relief, recovery of response costs, or other relief relating to the Site, Settling Defendants shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the United States in the subsequent proceeding were or should have been brought in the instant case; provided, however, that nothing in this Paragraph affects the enforceability of the Covenant Not to Sue by Plaintiff set forth in Section X (Covenants by Plaintiff).

XIII. NOTICES AND SUBMISSIONS

39. Whenever, under the terms of this Consent Decree, notice is required to be given or a document is required to be sent by one Party to another, it shall be directed to the individuals at the addresses specified below, unless those

individuals or their successors give notice of a change to the other Parties in writing. All notices and submissions shall be considered effective upon receipt, unless otherwise provided. Written notice as specified herein shall constitute complete satisfaction of any written notice requirement of the Consent Decree with respect to the United States, EPA, the Settling Federal Agency, and the Settling Defendants, respectively.

As to the United States:

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
Re: DJ # 90-11-3-1742

Chief, Environmental Defense Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 23986
Washington, D.C. 20026-3986
Re: DJ # 90-11-6-194

Letitia D. Moore
Assistant Regional Counsel
U.S. EPA, Region IX
75 Hawthorne Street
San Francisco, CA 94105

As to Harold Gerecht or East Charleston and Fogg:

Harold Gerecht
186 Raton Drive

Henderson, Nevada 89014

XIV. RETENTION OF JURISDICTION

40. This Court shall retain jurisdiction over both the subject matter of this Consent Decree and the Settling Defendants for the duration of the performance of the terms and provisions of this Consent Decree for the purpose of enabling any of the Parties to apply to the Court at any time for such further order, direction, and relief as may be necessary or appropriate for the construction or modification of this Consent Decree, or to effectuate or enforce compliance with its terms.

XV. INTEGRATION

41. This Consent Decree constitutes the final, complete and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Consent Decree. The Parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Consent Decree.

XVI. LODGING AND OPPORTUNITY FOR PUBLIC COMMENT

42. This Consent Decree shall be lodged with the Court for a period of not less than 30 Days for public notice and comment.

The United States reserves the right to withdraw or withhold its consent if the comments regarding the Consent Decree disclose facts or considerations which indicate that this Consent Decree is inappropriate, improper or inadequate. Settling Defendants consent to the entry of this Consent Decree without further notice.

43. If for any reason this Court should decline to approve this Consent Decree in the form presented, this agreement is voidable at the sole discretion of any party and the terms of the agreement may not be used as evidence in any litigation between the Parties.

XVII. SIGNATORIES/SERVICE

44. Each undersigned representative of a Settling Defendant to this Consent Decree and the Assistant Attorney General for the Environment and Natural Resources Division of the Department of Justice certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Decree and to execute and legally bind such Party to this document.

45. Each Settling Defendant hereby agrees not to oppose entry of this Consent Decree by this Court or to challenge any

provision of this Consent Decree unless the United States has notified the Settling Defendants in writing that it no longer supports entry of this Consent Decree.

46. Each Settling Defendant shall identify, on the attached signature page, the name, address and telephone number of an agent who is authorized to accept service of process by mail on behalf of that Party with respect to all matters arising under or relating to this Consent Decree. Settling Defendants hereby agree to accept service in that manner and to waive the formal service requirements set forth in Rule 4 of the Federal Rules of Civil Procedure and any applicable local rules of this Court, including, but not limited to, service of summons.

XVIII. EFFECTIVE DATE


47. The effective date of this Consent Decree shall be the date upon which it is entered by the Court.

XIX. FINAL JUDGMENT

48. Upon approval and entry of this Consent Decree by the Court, this Consent Decree shall constitute a final judgment between and among the United States and the Settling Defendants. . . . The Court finds that there is no just reason for delay and

therefore enters this judgment as a final judgment under Rules 54 and 58 of the Federal Rules of Civil Procedure.

SO ORDERED THIS 21st DAY OF January, 2000
~~1999~~


United States District Judge

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v. East Charleston and Fogg, et al., No. CV-N-97-000760 (D. Nev.).

FOR THE UNITED STATES OF AMERICA

Date: 11/2/99

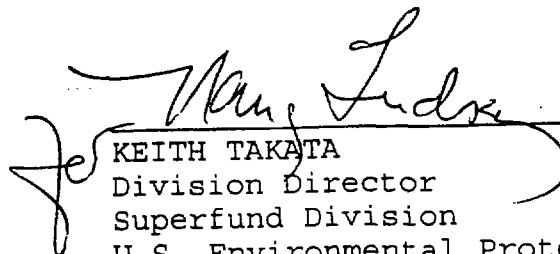
Walker Smith
WALKER SMITH
Deputy Chief
Environmental Enforcement Section
Environment and Natural Resources
Division
U.S. Department of Justice

Date: 11/12/99

Bradley O'Brien
BRADLEY O'BRIEN
Trial Attorney
Environmental Enforcement Section
Environment and Natural Resources
Division
U.S. Department of Justice

Date:


6 July 99



KEITH TAKATA
Division Director
Superfund Division
U.S. Environmental Protection
Agency, Region IX

Date:

30 June 99



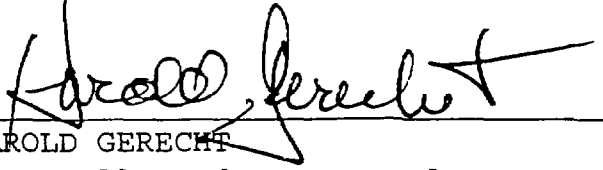
LETITIA D. MOORE
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection
Agency, Region IX

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v. East Charleston and Fogg et al., No. CV-N-97-000760 (D. Nev.), relating to the Site as defined in this Consent Decree.

FOR SETTTLING DEFENDANTS

Date:

5/24/99



HAROLD GERECHT

Personally and as General Partner
of East Charleston and Fogg

Agent Authorized to Accept Service on Behalf of Above-signed Parties:

Name: Harold Gerecht

Address: 186 Raton Drive
Henderson, Nevada 89014


THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v. East Charleston and Fogg, et al., No. CV-N-97-000760 (D. Nev.).

FOR THE UNITED STATES OF AMERICA

Date: 11/12/99

S. Randall Humm /rw

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SUBJECT	U.S. v. EAST CHARLESTON & FOGG, et al. 6247 East Charleston Blvd., Las Vegas Nevada		
NOTE	The Attached Consent Decree concerns sale of the E. Charleston Site and the costs due to the United States as secured by the Superfund Lien on the Site.		
	See background info at pp. 4-5, conveyance info at pp. 11-14, and info on		
	reimbursement to U.S. at pp. 14-17 of the attached Consent Decree		